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November 8, 2004

Jeff S. Jordan  
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Federal Elections Commission  
Washington DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2004 NOV 16 10:12

Re: MUR 5550

Dear Mr. Jordan,

I received your letter of October 6, and would like to add some data that has become available since I originally wrote this time notarized.

First, Mr. Moore was originally slated to speak at Cal State San Marcos: the university cancelled out of concern over partisan involvement. The speech was then reportedly funded by a corporation, WealthTV. My source for this is [http://biz.yahoo.com/prnews/041007/lath096\\_1.html](http://biz.yahoo.com/prnews/041007/lath096_1.html). Another contributor is reported to be Herring Broadcast Inc., which is contributing \$15,000. Source: [http://www.mercurynews.com/mld/mercurynews/news/local/states/california/the\\_valley/9905662.htm?1c](http://www.mercurynews.com/mld/mercurynews/news/local/states/california/the_valley/9905662.htm?1c). The fundraising was coordinated through the UCSM student organization. <http://www.nbcsandiego.com/news/3804785/detail.html>. (Also reporting that "Moore's proposed creed: "sleep til noon, drink beer, and vote for Kerry" resonated with those at the rally.") This would appear to constitute corporate expenditures to influence a Federal election.

Second, the campaign-related nature of the speeches, with express advocacy of specific candidates, has continued.

Moore told a Wayne State University audience: "We're visiting all 20 battleground states and our goal is to remove George W. Bush from the White House" Source: <http://www.pridesource.com/article.shtml?article=9722&section=news>.

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At Michigan State, the campus paper summed his speech as: “ Slackers of America, set down your beer, register to vote and cast a ballot for John Kerry!”

Source: <http://www.statenews.com/article.phtml?pk=25845>.

At the University of Cincinnati, according to the Cincinnati Enquirer, “Filmmaker and political provocateur Michael Moore chided and derided President Bush, Republicans and the news media...”

Source: [http://www.enquirer.com/editions/2004/10/28/loc\\_michaelmoore28.html](http://www.enquirer.com/editions/2004/10/28/loc_michaelmoore28.html).

This was the consistent theme of his “slacker tour” – not discussions of politics, but a vote drive for a specific candidates, and a clear intent to influence the 2004 election.

Third, it appears to me that, as expenditures made in order to influence an election in favor of a candidate, these expenditures are subject to contribution reporting requirements, whether the donor is a corporation or not. 2 USC 431(8). *See FEC v. Furgatch*, 807 F.2d 857 (9<sup>th</sup> Cir. 1987) (Individual takes out newspaper ads containing express advocacy before 1980 election: held is an expenditure subject to reporting). Even a State agency is a “person.” 2 USC 431(11). The spending does not qualify as an independent expenditure because it is coordinated with a political party. Penn State’s student paper has reported:

University Park Allocation Committee (UPAC) chairman Tom Truong said the College Democrats were allocated about \$23,000 for Moore's visit to Penn State, \$15,000 of which will go toward Moore's speaking fee. Green said the total cost of Moore's visit was about \$30,000, and added that about \$4,000 has been raised through private donations and about \$1,000 has come from Kerry-Edwards item donations.... Green said Centre County Democrats have kept an envelope in their office asking for donations for the event. ‘People see the envelope and give money,’ Green said.... Originally, Moore was scheduled to speak at Eisenhower Auditorium, but Moore and the College Democrats decided the center would be a better venue because it could accommodate more people, Green said.

Source: <http://www.collegian.psu.edu/archive/2004/10/10-01-04tdc/10-01-04dnews-09.asp>

At another university,

Filmmaker Michael Moore has accepted a speaking invitation from the Young Democrats student organization at Northwest Missouri State

University.... Moore is visiting colleges and sporting venues across the country as part of a "Slacker Uprising Tour" designed to get nonvoters involved in the November election and encourage them to vote for Democratic presidential nominee John Kerry.

Source: <http://www.columbiatribune.com/2004/Oct/20041003News026.asp>

Finally, I would point out that we are not talking small numbers here. The tour is said to involve over fifty appearances, and the average expenditure appears to be a bit over \$30,000. I am informed, for example, that the University of Florida paid Moore \$40,000 for his presentation, and that Lehigh University in Pennsylvania may have paid \$60,000. Even taking \$30,000 as an average, that would put the total at somewhere over \$1.5 million in what appear to be illegal and unreported campaign expenditures.

Sincerely,

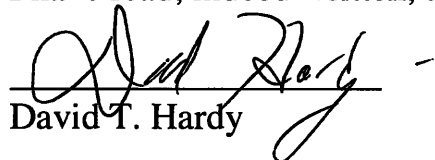


David T. Hardy

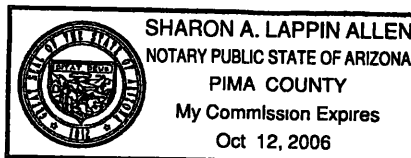
State of Arizona                    )  
  ) ss.  
County of Pima                    )

David T. Hardy, being first duly sworn, deposes and says:

I have read, indeed written, the above, and it is true and correct.

  
David T. Hardy

  
My commission expires: 10-12-2006



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